

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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JIMMY GETTINGS,

Plaintiff(s),

v.

CHRIS LINK, et al.,

Defendant(s).

Case No. 2:15-CV-2371 JCM (NJK)

ORDER

Presently before the court are the report and recommendation of Magistrate Judge Koppe. (Doc. # 3). No objections have been filed, and the time for doing so has passed. Also before the court are plaintiff Jimmy Gettings' motion for filing *lis pendens* and motion to withdraw the complaint. (Doc. ## 2 and 4).

Plaintiff's complaint alleges a claim under California state law on the basis of diversity jurisdiction. (*See* doc. # 1-1). Plaintiff alleges that the events which give rise to his claim occurred in California, and that both defendants reside in California. (*Id.*) Judge Koppe recommends the action be dismissed with prejudice because Nevada is not a proper venue for the action and amendment would be futile. *See* 28 U.S.C. § 1406(a); (doc. # 3 at 2–3). Plaintiff does not object to the recommendation. (*See* doc. # 4). In fact, he filed a motion to withdraw his complaint upon entry of Judge Koppe's recommendation. (Doc. # 4).

This court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to “make a *de novo* determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1).

Where a party fails to object, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149

(1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the view that district courts are not required to review "any issue that is not the subject of an objection."). Thus, if there is no objection to a magistrate judge's recommendation, then this court may accept the recommendation without review. *See, e.g., Johnstone*, 263 F. Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to which no objection was filed).

Nevertheless, this court finds it appropriate to engage in a *de novo* review to determine whether to adopt the recommendation of the magistrate judge. Upon reviewing the recommendation and the record in this matter, this court finds that good cause appears to adopt Judge Koppe's findings and recommendation in full.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Magistrate Judge Koppe's report and recommendation (doc. # 3) be, and the same hereby are, ADOPTED in their entirety.

IT IS FURTHER ORDERED that plaintiff Jimmy Gettings' complaint (doc. # 1-1) be, and the same hereby is, DISMISSED, without prejudice to refile in a district in which venue is proper.

IT IS FURTHER ORDERED that plaintiff Jimmy Gettings' motion for filing *lis pendens* (doc. # 2) be, and the same hereby is, DENIED as moot.

IT IS FURTHER ORDERED that plaintiff Jimmy Gettings' motion to withdraw complaint (doc. # 4) be, and the same hereby is, DENIED as moot.

The clerk shall enter judgment accordingly and close the case.

DATED April 28, 2016.

  
UNITED STATES DISTRICT JUDGE